

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-0946V

Filed: October 12, 2017

UNPUBLISHED

The Estate of ARNOLD LEE MILLER,
Decedent, by and through ARMICKA
S. MILLER, as Personal
Representative,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Attorneys' Fees and Costs

*Isaiah Richard Kalinowski, Maglio Christopher & Toale, PA, Washington, DC, for
petitioner.*

Jennifer Leigh Reynaud, U.S. Department of Justice, Washington, DC, for respondent.

DECISION ON ATTORNEYS' FEES AND COSTS¹

Dorsey, Chief Special Master:

On August 5, 2016, petitioner filed a petition as personal representative for the estate of Arnold Lee Miller for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, et seq.,² (the "Vaccine Act"). Petitioner alleged that the decedent, Arnold Lee Miller, developed Guillain-Barré Syndrome ("GBS") resulting in his death which was causally related to the influenza vaccine and Prevnar 13 pneumococcal conjugate vaccine he received on November 4, 2015. Petition at 1, ¶¶ 3, 14-18. On August 3, 2017, the undersigned issued a decision

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

awarding compensation to petitioner based on respondent's proffer to which petitioner agreed. (ECF No. 31.)

On September 12, 2017, petitioner filed a motion for attorneys' fees and costs. Petitioner's Motion for Attorneys' Fees and Costs ("Pet. Motion") (ECF No. 36). Petitioner requests attorneys' fees in the amount of \$23,504.40 and attorneys' costs in the amount of \$1,387.29. *Id.* at ¶¶ 3-4. In compliance with General Order #9, petitioner filed a signed statement indicating that petitioner incurred no out-of-pocket expenses. See 1st Attachment to Pet. Motion (CF No. 36-1). Thus, the total amount requested is \$24,891.69. Pet. Motion at ¶ 8.

Respondent has filed no response.

The undersigned has reviewed the billing records submitted with petitioner's request. In the undersigned's experience, the request appears reasonable, and the undersigned finds no cause to reduce the requested hours or rates.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. § 15(e). Based on the reasonableness of petitioner's request and the lack of opposition from respondent, the undersigned **GRANTS** petitioner's motion for attorneys' fees and costs.

Accordingly, the undersigned awards the total of \$24,891.69³ as a lump sum in the form of a check jointly payable to petitioner and petitioner's counsel Isaiah Kalinowski. Per petitioner's request, the check should be forwarded to Maglio, Christopher & Toale, PA, 1605 Main Street, Suite 710, Sarasota, Florida 34236.

The clerk of the court shall enter judgment in accordance herewith.⁴

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master

³ This amount is intended to cover all legal expenses incurred in this matter. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, § 15(e)(3) prevents an attorney from charging or collecting fees (including costs) that would be in addition to the amount awarded herein. See generally *Beck v. Sec'y of Health & Human Servs.*, 924 F.2d 1029 (Fed. Cir.1991).

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.